

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Rabussay, Dietmar

Serial No.: 10/516,757

I.A. Filing Date: March 25, 2003

For: INTRADERMAL DELIVERY OF ACTIVE  
AGENTS BY NEEDLE- FREE INJECTION  
AND ELECTROPORATION

Examiner: TBD

Art Unit: 3763

Docket No.: GTI-1490-US

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STATEMENT WITH PETITION TO WITHDRAW ABANDONMENT  
(37 CFR §1.181(b))

Mail Stop: Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully submits this request to withdraw abandonment under 37 CFR 1.181(b) for the following reasons and enclosed here with are exhibits in support thereof:

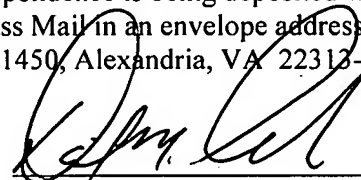
1. Due to a change in fees the proper fee amount was unintentionally filed and the 26 August 2005 U.S. Patent Office decision to revive was vacated and dismissed without prejudice. Please see courtesy copy of the Notice of Abandonment attached hereto.
2. Enclosed herewith are the current **total** fees due and with our new submission of a petition to revive.

\*\*\*\*\*  
CERTIFICATE OF MAILING PURSUANT TO 37 CFR § 1.8:

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop: MISSING PARTS, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

DANIEL M. CHAMBERS  
Name

5 October 2007  
Date

  
Signature

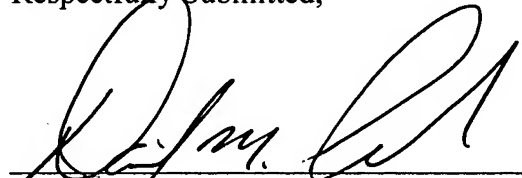
Applicants respectfully request that the Notice of Abandonment be withdrawn and a Notice Withdrawing the Abandonment be forwarded to the Applicant's attorney.

Applicant further believes that the enclosed fees are due in connection with the Petition and should serve as payment of all fees in full. Should there be a fee due, please immediately contact the undersigned attorney at (858) 350-9690.

Respectfully Submitted,

DATED: October 5, 2007  
 BioTechnology Law Group  
 c/o PortfolioIP  
 P.O. Box 52050  
 Minneapolis, MN 55402  
 Telephone: (858) 350-9690  
 Facsimile: (858) 350-9691  
 Email: [dan@biotechnologylawgroup.com](mailto:dan@biotechnologylawgroup.com)

By:

  
 Daniel M. Chambers (Reg. No. 34,561)  
 Attorney for Applicant



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/516,757	FIRST NAMED APPLICANT Dietmar Rabussay	ATTY. DOCKET NO. GTI-1490-USN
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INTERNATIONAL APPLICATION NO. PCT/US03/09031	
I.A. FILING DATE 03/25/2003	PRIORITY DATE 03/25/2002

35938  
 BIOTECHNOLOGY LAW GROUP  
 C/O PORTFOLIOIP  
 PO BOX 52050  
 MINNEAPOLIS, MN 55402

CONFIRMATION NO. 6894

371  
 ABANDONMENT/TERMINATION  
 LETTER

\*OC000000024117053\*

Date Mailed: 08/20/2007

## NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

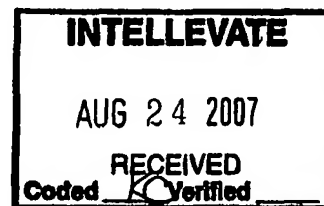
Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

SHAKEEL AHMED

Telephone: (703) 308-9140 EXT 208

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)





27 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Daniel M Chambers  
Biotechnology Law Group  
658 Marsolan Avenue  
Solana Beach CA 92075

In re Application of  
RUBASSAY  
Application No.: 10/516,757  
PCT No.: PCT/US03/09031  
Int. Filing Date: 25 March 2003  
Priority Date: 25 March 2002  
Attorney Docket No.: GTI-1490-USN  
For: MINIMIZING METAL TOXICITY  
DURING ELECTROPORATION ENHANCED  
DELIVERY OF POLYNUCLEOTIDES

DECISION  
ON PETITION UNDER  
37 CFR 1.137(b)

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

On 26 August 2005, a decision was mailed to applicant granting his petition to revive under 37 CFR 1.137(b) filed 04 December 2004 in the above-captioned application. For the reasons set forth below, the decision mailed on 26 August 2005 is hereby **VACATED**. The petition to revive under 27 CFR 1.137(b) filed on 04 December 2004 is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Upon closer review of the application file and USPTO finance records, it noted that applicant did not pay the full basic national fee due upon the filing of a petition to revive. Applicant paid \$100, the basic national fee for an application where the international preliminary examination revealed that all claims satisfied provisions of PCT Article 33(1)-(4). However, in the instant case, there was no international preliminary examination report, satisfying the provisions of the Article. For the instant application, the application fee required upon entering the national stage was \$790, the basic national fee required where the U.S. acted in its capacity as International Searching Authority. Applicant did not provide a deposit account number or authorization to charge any additional fees to the deposit account.

Since applicant failed to pay the full basic national fee required with the petition to revive, the proper reply was not submitted. Thus, the petition to revive must be dismissed without prejudice and the application remains abandoned.

Applicant is advised to file a renewed petition to revive along with the appropriate basic national fee. Applicant is reminded that on 08 December 2004, the basic national fee under 37 CFR 1.492(a) was changed to \$300.

26 AUG 2005



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Daniel M Chambers  
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Solana Beach CA 92075

In re Application of  
RUBASSAY  
Application No.: 10/516,757  
PCT No.: PCT/US03/09031  
Int. Filing Date: 25 March 2003  
Priority Date: 25 March 2002  
Attorney Docket No.: GTI-1490-USN  
For: MINIMIZING METAL TOXICITY  
DURING ELECTROPORATION ENHANCED  
DELIVERY OF POLYNUCLEOTIDES

DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 04 December 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee of \$1370 was paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. The declaration in compliance with 37 CFR 1.497(a) and (b) has been provided and is acceptable.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 04 December 2004.

Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

Telephone: 571-272-3286  
Facsimile: 571-273-0459

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT  
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number  
(Optional)  
GTI-1490-US

First Named Inventor: Dietmar P. Rabussay

International (PCT) Application No.: PCT/US2003/009031

U.S. Application No.: 10/516,757  
(if known)

Filed: December 04, 2004

Title: Minimizing Metal Toxicity During Electroporation Enhanced Delivery of Polynucleotides

LLANDGRA 00000021 10516757

1500.00 OP

Attention: PCT Legal Staff

Mail Stop PCT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**
☐ Small entity - fee \$.00 (37 CFR 1.17(m)). Applicant claims small entity status.  
See 37 CFR 1.27.

☒ Other than small entity - fee \$1500 (37 CFR 1.17(m))
**2. Proper reply**

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of 1. Application  
attached documents 2. Declaration  
(identify type of reply): 3. Assignment

☐ has been filed previously on \_\_\_\_\_

☒ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

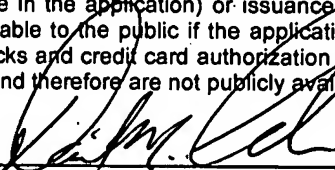
☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

	5 Oct '07
Signature	Date
Daniel M. Chambers	34,561
Typed or Printed Name	Registration Number, if applicable
527 N. Highway 101, Suite E	858 350 9690
Address	Telephone Number
Solana Beach, CA 92075-1173	

Enclosures:	<input checked="" type="checkbox"/> Response <input checked="" type="checkbox"/> Fee Payment <input type="checkbox"/> Terminal Disclaimer <input checked="" type="checkbox"/> Other (please identify):	<b>Address</b> <b>Enclosed for Filing:</b> <ol style="list-style-type: none"> <li>Transmittal;</li> <li>Petition for Revival of an Int'l Application;</li> <li>Statement to Withdraw Abandonment; Notice of Abandonment; &amp; Notice of Withdrawal of Abandonment attached thereto;</li> <li>Information Disclosure Statement No. 2</li> <li>SBO8A;</li> <li>References (22 items);</li> </ol> <b>Courtesy Copies of:</b> <ol style="list-style-type: none"> <li>WO 03/083837A2 Published on 9 Oct. 2003 (PCT/US03/09031 filed 25 March 2003);</li> <li>International Search Report (WO 03/083837 A3);</li> <li>Form PCT/IB/308;</li> <li>Declaration;</li> <li>Recorded Assignment;</li> <li>Information Disclosure No. 1 filed December 22, 2006;</li> <li>Change of Correspondence address filed March 5, 2007;</li> </ol>
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